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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

AUG 2 2 2007

GROUP 2800

Application Number: 09/827,487
Filing Date: August 09, 2001
Appellant(s): BRUMM ET AL.

Peter Zura (Reg. No. 48,196)
For Appellant

EXAMINER'S ANSWER

This is in response to the supplemental appeal brief filed May 14, 2007 appealing from the Office action mailed August 3, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

U.S. 6,396,840	ROSE et al.	5-2002
U.S. 6,885,658	RESS et al.	4-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims **1 and 3-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose et al. (U.S. 6,396,840) (hereinafter "Rose") in view of Ress et al. (U.S. 6,885,658) (hereinafter "Ress").

Regarding claim **1**, *Rose* teaches an integrated system architecture in Figure 5 connecting subscriber terminal 119 (telecommunications device) to LAN 10 (packet-switching network). *Rose* also teaches subscriber terminal 119 (telecommunications device) that is connected to exchange 118 (line-switching network) as shown in Figure 5.

Rose also teaches LAN 10 (packet-switching communications network) of Figure 5 that communicates with multi-media endpoint 110 (second subscriber line). Rose also teaches gateway interface 112 (interface unit) of Figure 5 connected to both LAN 10 (packet-switching network) and subscriber terminal 119 (telecommunications device).

Rose also teaches gateway interface 112 of Figure 6 that translates H.225 call signaling (first signaling data) from LAN 10 into DSS1 broadband format (second signaling data) for onward routing as spoken of on column 8, lines 53-65.

Rose fails to teach where the second signaling data is transmitted to the packet-switching communications network instead of the first signaling data when the second signaling data cannot be converted to the first signaling data.

However, *Ress* teaches a method of protocol interworking where message tunneling is used to transfer a native protocol message (second signaling data) from one protocol agent to another protocol agent without converting to and from the agent interworking protocol (first signaling) in the case that the native protocol message does not map to the other agent protocol as spoken of on column 9, lines 6-16.

At the time of the invention, it would have been obvious to someone skilled in the art to combine the tunneling teachings of *Ress* with the interworking teachings of *Rose* in order to communicate messages or parameters which do not map to any other agent protocols, but provide added value for a call between two devices as spoken of on column 9, lines 6-16 of *Ress*.

Regarding claim **3**, *Rose* further teaches H.225 RAS 22, H.225 call signaling 14, and H.245 negotiation control 26 (first signaling data) as well as call signaling 114 (second signaling data) shown in Figure 6 and spoken of on column 8, lines 53-59.

Regarding claim **4**, *Rose* further teaches gateway interface 112 (interface unit) of Figure 6 that translates incoming H.225 call signaling (signaling messages) from LAN 10 (packet network) into DSS1 broadband format (signaling messages) for onward routing as spoken of on column 8, lines 53-65.

Regarding claim **5**, *Rose* further teaches memory 154 of gateway interface 112 of Figure 6 that contains look-up tables (database) associated with signaling protocol translation schemes used to translate LAN signaling to narrowband/broadband signaling as spoken of on column 8, line 66 – column 9, line 5.

Regarding claim **6**, *Rose* further teaches gateway interface 112 of Figure 6 that translates incoming H.225 call signaling (signaling messages) from LAN 10 (packet network) into DSS1 broadband format (signaling messages) for onward routing as spoken of on column 8, lines 53-65.

Regarding claim **7**, *Rose* further teaches a message (acknowledgement) confirming the trunk circuit identity sent from next exchange 118 to call handler 116 in response to a setup signaling message sent from call handler 116 to next exchange 118 as spoken of on column 10, lines 24-36.

Regarding claim **8**, *Rose* further teaches call signaling messages 114 that are used to set-up and clear-down calls as spoken of on column 7, lines 53-56.

Regarding claim **9**, *Rose* further teaches the H.225 RAS (registering, admission, and status) signaling shown in Figure 6.

Regarding claim **10**, *Rose* further teaches call signaling information 114 containing an address of a called party (call number identification) as spoken of on column 9, lines 13-18.

Regarding claim **11**, *Rose* further teaches gateway interface 112 of Figure 6 that translates incoming H.225 call signaling (signaling messages) from LAN 10 (packet network) into DSS1 broadband format (signaling messages) for onward routing as spoken of on column 8, lines 53-65.

Regarding claim **12**, *Rose* further teaches the DSS1 signaling format spoken of on column 8, lines 53-59.

Regarding claim **13**, *Rose* further teaches the H.225 RAS 22 and H.225.0 call signaling 14 spoken of on column 8, lines 44-49.

Regarding claim **14**, *Rose* further teaches subscriber terminal 119 of Figure 5 that utilizes ISDN broadband communication as spoken of on column 7, lines 50-62.

Regarding claim **15**, *Rose* further teaches the exchange 118 shown in Figure 5.

Regarding claim **16**, *Rose* further teaches gateway interface 112 shown in Figure 5.

Regarding claim **17**, *Rose* further teaches gateway interface 112 shown in Figure 5.

Regarding claim **18**, *Rose* further teaches the gateway interface 112 operating as a subscriber as spoken of on column 12, lines 11-16.

Regarding claim **19**, *Rose* further teaches gateway interface 112 shown in Figure 5.

Regarding claim **20**, *Rose* further teaches the H.225 RAS 22 and H.225.0 call signaling 14 spoken of on column 8, lines 44-49.

Regarding claim **21**, *Rose* teaches gateway interface 112 (interface unit) of Figure 5 connected to both LAN 10 (packet-switching network) and subscriber terminal 119 (telecommunications device) that is further connected to exchange 118 (line-switching network) as shown in Figure 5.

Rose also teaches processor 152 (control unit) of gateway interface 112 of Figure 6 that translates incoming H.225 call signaling (signaling information) from LAN 10 (packet network) into DSS1 broadband format (signaling information) for onward routing as spoken of on column 8, lines 53-65.

Rose fails to teach where the second signaling data is transmitted to the packet-switching communications network instead of the first signaling data when the second signaling data cannot be converted to the first signaling data.

However, *Ress* teaches a method of protocol interworking where message tunneling is used to transfer a native protocol message (second signaling data) from one protocol agent to another protocol agent without converting to and from the agent interworking protocol (first signaling) in the case that the native protocol message does not map to the other agent protocol as spoken of on column 9, lines 6-16.

At the time of the invention, it would have been obvious to someone skilled in the art to combine the tunneling teachings of *Ress* with the interworking teachings of *Rose* in order to communicate messages or parameters which do not map to any other agent protocols, but provide added value for a call between two devices as spoken of on column 9, lines 6-16 of *Ress*.

Regarding claim **22**, *Rose* further teaches gateway interface 112 (interface unit) of Figure 5 connected to both LAN 10 (packet-switching network) and subscriber terminal 119 (terminal).

Regarding claim **23**, *Rose* further teaches gateway interface 112 (interface unit) of Figure 5 connected to both LAN 10 (packet-switching network) and exchange 118.

Regarding claim **24**, *Rose* teaches gateway interface 112 (interface unit) of Figure 5 connected to both LAN 10 (packet-switching network) and subscriber terminal 119 (telecommunications device) that is further connected to exchange 118 (line-switching network) as shown in Figure 5.

Rose also teaches processor 152 (control unit) of gateway interface 112 of Figure 6 that translates incoming H.225 call signaling (signaling information) from LAN 10 (packet network) into DSS1 broadband format (signaling information) for onward routing as spoken of on column 8, lines 53-65.

Rose fails to teach where the second signaling data is transmitted to the packet-switching communications network instead of the first signaling data when the second signaling data cannot be converted to the first signaling data.

However, *Ress* teaches a method of protocol interworking where message tunneling is used to transfer a native protocol message (second signaling data) from one protocol agent to another protocol agent without converting to and from the agent interworking protocol (first signaling) in the case that the native protocol message does not map to the other agent protocol as spoken of on column 9, lines 6-16.

At the time of the invention, it would have been obvious to someone skilled in the art to combine the tunneling teachings of *Ress* with the interworking teachings of *Rose* in order to communicate messages or parameters which do not map to any other agent protocols, but provide added value for a call between two devices as spoken of on column 9, lines 6-16 of *Ress*.

Regarding claim **25**, *Rose* further teaches gateway interface 112 shown in Figure 5.

Regarding claim **26**, *Rose* teaches exchange 142 (private branch exchange) of Figure 5 connected to exchange 118 (line-switching network).

Rose also teaches gateway interface 112 (interface unit) of Figure 5 connected to both LAN 10 (packet-switching network) and subscriber terminal 119 (telecommunications device) that is further connected to exchange 118 (line-switching network) as shown in Figure 5.

Rose also teaches processor 152 (control unit) of gateway interface 112 of Figure 6 that translates incoming H.225 call signaling (signaling information) from LAN 10 (packet network) into DSS1 broadband format (signaling information) for onward routing as spoken of on column 8, lines 53-65.

Rose also teaches gateway interface 112 (interface unit) of Figure 5 connected to both LAN 10 (packet-switching network) and exchange 118.

Rose fails to teach where the second signaling data is transmitted to the packet-switching communications network instead of the first signaling data when the second signaling data cannot be converted to the first signaling data.

However, *Ress* teaches a method of protocol interworking where message tunneling is used to transfer a native protocol message (second signaling data) from one protocol agent to another protocol agent without converting to and from the agent interworking protocol (first signaling) in the case that the native protocol message does not map to the other agent protocol as spoken of on column 9, lines 6-16.

At the time of the invention, it would have been obvious to someone skilled in the art to combine the tunneling teachings of *Ress* with the interworking teachings of *Rose* in order to communicate messages or parameters which do not map to any other agent protocols, but provide added value for a call between two devices as spoken of on column 9, lines 6-16 of *Ress*.

Regarding claim **27**, *Rose* further teaches gateway interface 112 shown in Figure 5 contained within exchange 142.

(10) Response to Argument

Applicant argues that the system of Ress (U.S. 6,885,658) transfers message data, and not signaling information, according to a mapped protocol. Applicant further argues that the interworking of *Ress* relates to the protocol of the message (H.323) that is tunneled, and not the signaling (H.245). However, it is held that the messages transmitted by Ress are signaling messages (See Figure 12).

Referring to column 9, lines 17-30 of *Ress*, it is stated that a capability of H.323 that cannot be supported by other protocols is the exchange of H.245 indications (signaling messages) between two H.323 devices. *Ress* further states that some of these indications have no equivalent mapping to other protocols, and that a way to alleviate this problem is to tunnel the H.323 messages from one agent to another agent.

Referring to Figure 9a, it is shown in step ST2 that a determination is made whether a protocol mapping is available for an incoming message. As a result of this step, an AIP message is formulated, a multiprotocol message is formulated, or the message is transmitted without modification (tunneled) to the receiving agent.

Referring to Figure 12, call signaling between agents including AIP messages as well as a multipart message (contains H.245 signaling information) is shown.

It is held that this tunneling principle (applicable in SIP, MGCP, H.323) as taught by *Ress* on column 9, lines 1-45, (also referred to in Applicant's specification on page 13, lines 1-5) teaches the limitation "wherein the second signaling data is transmitted to the packet-switching communications network instead of the first signaling data when the second signaling data cannot be converted to the first signaling data".

It is also held that it would be obvious to someone skilled in the art to combine the signaling protocol interworking between a packet-switched and a line-switched network as taught by *Rose* with the tunneling principle taught by the interworking system of *Ress* in order to communicate messages or parameters which do not map to any other agent protocols, but provide added value for a call between two devices as spoken of on column 9, lines 6-16 of *Ress*.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael J. Moore, Jr. MM

Dated: June 19, 2006

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